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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,951	10/22/2003	Gregory Hackman	98731-000001/US	4019
30593	7590	09/07/2005		
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER ALI, MOHAMMAD M	
			ART UNIT	PAPER NUMBER
			3744	
DATE MAILED: 09/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/689,951

Applicant(s)

HACKMAN ET AL.

Examiner

Mohammad Ali

Art Unit

3744

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Md. Mohd Ali

Continuation of 11. NOTE: The Applicant argued. "The applicant respectfully contend that a fair and reasonable reading of the translation provided would not lead of ordinary skill in the art to conclude that paths 8 and 10 are fluid flow passages for distrubution of cryogenic fluid as alleged. Action at 3. Indeed, according to Sillat, the presence of fluid within passage 10 results in the closing of check valves 9 and 11. Sillat Trans., page 4, lines 29-33. Such a result will prevent lines 8 and 10 from being used to distribute any cryogenic fluid" The Examiner disagrees. Any flud line provided with valves does not mean that it is not a fluid supply or distribution line. On the other hand a vapor coming from a cryogenic fluid is also a cryogenic fluid. Again the applicant argued, "Similarly, there is no indication in Sillat that any sensor is actually provided in line 10 as alleged. Action at 3. Indeed, the Applicant contend that Sillat's alleged sensor is simply a vessel with a gas, such as neon, that will condense when surrounded by the cyogenic liquid, in this instance LH2, exiting the container 1, therebyreducing the pressure in line 13 to which it is pneumatically connected, with the pressure dop, in turn, being sensed by pneumatic contact manometer P3 at some disdistance removed from any cryogenic fluid or liquid in line 10." The Examiner again disagrees. The translation page 4, lines 5 and 6 clearly idicate, "The necessary sensor medium, preferably neon in the case of hydrogen storage container, is connected to the vapor pressure contact manometer 12 via line 13". The examiner also believes that any kind of sensing activity is an acive. Regarding other 103 rejections the Examiner believes that the previous rejections are valid and no further expalanation is required. Regarding the question of final action, MPEP 706.07(a) does not make any bar for making a second action final on the ground of first action taken on the basis of an abstract. Hence, all previous actions are ok.